

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

John Harold Wycoff, :
: Plaintiff, : Case Number: 1:13-cv-641
vs. : Judge Michael R. Barrett
: Commissioner of Social Security, :
: Defendant. :

ORDER

This matter is before the Court on the Magistrate Judge's October 18, 2017 Report and Recommendation ("R&R") that Plaintiff's Motion for Attorney Fees under Social Security Act, 42 U.S.C. § 406(b)(1) be granted. (Doc. 30). The parties were given proper notice under Rule 72(b) of the Federal Rules of Civil Procedure, including notice that the parties would waive further appeal if they failed to file objections to the R&R in a timely manner. See *United States v. Walters*, 638 F.2d 947, 949-950 (6th Cir. 1981). The Commissioner filed a Response to the R&R. (Doc. 31).

Pursuant to 42 U.S.C. § 406(b), a court may allow a "reasonable fee" for court-related services not exceeding twenty-five percent of a claimant's past-due benefits. 42 U.S.C. § 406(b)(1)(A). When seeking fees under § 406(b), "the attorney must show, and the Court must affirmatively find, that a contingency fee sought, even one within the 25% cap, is reasonable for the services rendered." *Lowery v. Com'r of Soc. Sec.*, 940 F.Supp.2d 689, 691-92 (S.D.Ohio 2013) (citing *Gisbrecht v. Barnhart*, 535 U.S. 789, 807, 122 S.Ct. 1817, 152 L.Ed.2d 996 (2002)).

Here, counsel seeks \$15,000.00, which equates to less than twenty-five percent of Plaintiff's past due benefits (\$26,916.00), and produces a hypothetical hourly rate of \$252.10. The Commissioner explains that is a reasonably hourly fee and has no objection to this fee being awarded to counsel. The Court agrees that the fee is reasonable for the work counsel performed on behalf of Plaintiff in this Court. See *Tibbetts v. Comm'r of Soc. Sec.*, No. 1:12-CV-894, 2015 WL 1637414, at *4 (S.D. Ohio Apr. 13, 2015) (explaining that this Court has indicated that \$350 to \$360 per hour represents a "per se reasonable" fee under § 406(b)).

Having reviewed the motion and supporting documentation, the Court finds the contingency agreement to be fair and reasonable under the circumstances presented in this case. The Court hereby **ADOPTS** the Magistrate Judge's October 18, 2017 R&R (Doc. 30). Accordingly, Plaintiff's Motion for Attorney Fees under Social Security Act, 42 U.S.C. § 406(b)(1) is **GRANTED**. (Doc. 27). The Court approves counsel's request for attorney fees in the amount of \$15,000.00. This matter remains **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

/s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court